

REFERENCE TITLE: developmental disabilities council; duties; continuation

State of Arizona  
Senate  
Forty-ninth Legislature  
First Regular Session  
2009

# **SB 1310**

Introduced by  
Senator Gray L; Representative Barto

## **AN ACT**

AMENDING SECTIONS 36-553, 36-573, 41-2451, 41-2452, 41-2454 AND 41-4101, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3009.04, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3010.26; RELATING TO THE ARIZONA COUNCIL ON DEVELOPMENTAL DISABILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-553, Arizona Revised Statutes, is amended to  
3 read:

4 36-553. Developmental disabilities advisory council:  
5 membership; duties

6 A. The developmental disabilities advisory council is established  
7 consisting of the following twelve members:

8 1. One parent or guardian of a child who is under the age of eighteen  
9 years and who is developmentally disabled.

10 2. One parent or guardian of a child who is eighteen years of age or  
11 older and who is developmentally disabled.

12 3. One member of the private sector who represents an agency that is  
13 licensed to provide licensed residential services to the developmentally  
14 disabled.

15 4. One member of the private sector who represents an agency that is  
16 licensed to provide licensed nonresidential services to the developmentally  
17 disabled.

18 5. One person with a developmental disability.

19 6. Two members each representing a different developmental disability  
20 advocacy organization.

21 7. One member from the designated protection and advocacy  
22 organization.

23 8. The director of the Arizona health care cost containment system  
24 administration or the director's designee. This person is a nonvoting  
25 member.

26 9. The assistant director of the division of developmental  
27 disabilities. This person is a nonvoting member.

28 10. One member from the ~~governor's~~ ARIZONA council on developmental  
29 disabilities.

30 11. One member representing foster parents of children with  
31 developmental disabilities.

32 B. The governor shall appoint all voting members. Voting members and  
33 their families shall not be employees of the department of economic security.  
34 In making these appointments the governor shall select at least five members  
35 who are clients, ~~OR~~ OR guardians, parents or other family members of persons  
36 with developmental disabilities. One of these five voting members shall  
37 represent a person who is eligible for long-term care services pursuant to  
38 chapter 29, article 2 of this title. The governor shall also consider  
39 geographic representation in making these appointments.

40 C. Council members appointed pursuant to subsection A, paragraphs 1  
41 through 7 and 11 of this section shall serve staggered three year  
42 terms. ~~Beginning September 30, 1992,~~ No members may serve more than two full  
43 terms. A vacancy occurring on the council shall be filled by the governor  
44 appointing another qualified person to serve the remainder of the term.

1 D. The council chairman shall be chosen annually by a majority vote of  
2 the council. A majority of voting council members constitutes a quorum.

3 E. The council shall meet at least four times each year.

4 F. Council members are not eligible to receive compensation, but  
5 council members appointed pursuant to subsection A, paragraphs 1 through 7  
6 and 11 of this section are eligible to receive reimbursement of expenses  
7 pursuant to title 38, chapter 4, article 2.

8 G. The council shall review and make recommendations to the division  
9 regarding:

10 1. Coordinating and integrating services provided by state agencies  
11 and providers that have contracted with state agencies to provide  
12 developmental disability programs.

13 2. The health, safety, welfare and legal rights of persons with  
14 developmental disabilities.

15 3. Implementing the state plan.

16 4. Establishing and reviewing division policies and programs.

17 5. Annual rate setting methodology.

18 6. Assessing the division's annual needs.

19 7. Selecting the assistant director of the division.

20 8. Monitoring the division's annual budget.

21 9. The sale or lease of the real property and improvements on the real  
22 property formerly used by the department of economic security for the Arizona  
23 training program in Phoenix.

24 H. The council shall oversee and approve expenditures of monies from  
25 the developmentally disabled client services trust fund established in  
26 section 36-572 following expenditure guidelines established by the council.

27 I. The council shall provide the public with an opportunity to address  
28 the council at regularly publicized meetings.

29 J. The council shall submit an annual report of activities to the  
30 director, the governor, the president of the senate and the speaker of the  
31 house of representatives by December 31 of each year.

32 K. The department shall make meeting space available to the  
33 developmental disabilities advisory council at locations and times convenient  
34 to the council and shall provide secretarial and other staff support.

35 Sec. 2. Section 36-573, Arizona Revised Statutes, is amended to read:

36 36-573. Developmental disabilities oversight committee;  
37 membership; compensation; duties

38 A. The developmental disabilities oversight committee is established  
39 consisting of the following members:

40 1. Three members of the house of representatives who are appointed by  
41 the speaker of the house of representatives, not more than two of whom are  
42 members of the same political party. The speaker of the house of  
43 representatives shall designate one of these members as cochairperson of the  
44 committee.

1           2. Three members of the senate who are appointed by the president of  
2 the senate, not more than two of whom are members of the same political  
3 party. The president of the senate shall designate one of these members as  
4 cochairperson of the committee.

5           3. The director of the division.

6           4. A member who represents the governor's office.

7           5. One person who represents an organization that provides in-home  
8 services to persons with developmental disabilities and who is appointed by  
9 the speaker of the house of representatives.

10          6. One person who represents an organization that provides employment  
11 and residential services to persons with developmental disabilities and who  
12 is appointed by the president of the senate.

13          7. One member who is the parent or legal guardian of a minor child  
14 with a developmental disability and who is appointed by the speaker of the  
15 house of representatives.

16          8. One member who is the parent or legal guardian of an adult with a  
17 developmental disability and who is appointed by the president of the senate.

18          9. One member who is an adult with a developmental disability and who  
19 is appointed by the speaker of the house of representatives.

20          10. One member who is an adult with a developmental disability and who  
21 is appointed by the president of the senate.

22          11. One member who represents a statewide advocacy organization  
23 servicing persons with cognitive and other developmental disabilities and  
24 their families and who is appointed by the speaker of the house of  
25 representatives.

26          12. One member who represents the ~~governor's~~ ARIZONA council on  
27 developmental disabilities and who is appointed by the president of the  
28 senate.

29          B. Committee members serve at the pleasure of the person responsible  
30 for making the appointment.

31          C. Committee members are not eligible for compensation but members  
32 appointed pursuant to subsection A, paragraphs 5 through 12 are eligible to  
33 receive reimbursement of expenses pursuant to title 38, chapter 4, article 2.

34          D. The committee shall:

35           1. Monitor and evaluate the effectiveness of the qualified vendor  
36 system of delivering services to persons with developmental disabilities.

37           2. Take testimony and study the feasibility of modifications to the  
38 state's system of delivering services to persons with developmental  
39 disabilities.

40           3. Study available employment opportunities for persons with  
41 developmental disabilities and make recommendations for improving those  
42 opportunities.

43           4. Submit an annual report of its findings and recommendations to the  
44 governor, the president of the senate and the speaker of the house of

1 representatives and provide a copy of this report to the secretary of state  
2 and the director of the Arizona state library, archives and public records.

3 Sec. 3. Section 41-2451, Arizona Revised Statutes, is amended to read:  
4 41-2451. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Council" means the ~~governor's~~ ARIZONA council on developmental  
7 disabilities.

8 2. "Developmental disability" means a severe, chronic disability of a  
9 person that:

10 (a) Is attributable to mental or physical impairment such as mental  
11 retardation, cerebral palsy, epilepsy or autism.

12 (b) Is manifest before age eighteen.

13 (c) Is likely to continue indefinitely.

14 (d) Results in substantial functional limitations in three or more of  
15 the following areas of major life activity:

16 (i) Self-care.

17 (ii) Receptive and expressive language.

18 (iii) Learning.

19 (iv) Mobility.

20 (v) Self-direction.

21 (vi) Capacity for independent living.

22 (vii) Economic self-sufficiency.

23 (e) Reflects the need for a combination and sequence of individually  
24 planned or coordinated special, interdisciplinary or generic care, treatment  
25 or other services that are of lifelong or extended duration.

26 3. "District advisory council" means a local volunteer organization  
27 that may receive funding from the council in:

28 (a) Implementing the developmental disabilities assistance and bill of  
29 rights act OF 2000 (42 United States Code section ~~6000~~ 15001).

30 (b) Identifying and serving the needs of persons with developmental  
31 disabilities and their families.

32 (c) Providing education and enhancing public awareness about  
33 developmental disabilities to the local community.

34 Sec. 4. Section 41-2452, Arizona Revised Statutes, is amended to read:  
35 41-2452. Arizona council on developmental disabilities;

36 members; appointment; qualifications; terms

37 A. The ~~governor's~~ ARIZONA council on developmental disabilities is  
38 established to provide coordination and planning in the field of  
39 developmental disabilities.

40 B. The council consists of no more than twenty-five members appointed  
41 by the governor for three year terms in accordance with the requirements of  
42 this section. ONLY THE GOVERNOR MAY REMOVE MEMBERS APPOINTED TO THE COUNCIL.

43 C. At least sixty per cent of the members of the council shall be from  
44 the following groups:

1           1. Persons with developmental disabilities or parents or guardians of  
2 such persons. FIFTY PER CENT OF THIS GROUP SHALL REPRESENT PERSONS WITH  
3 COGNITIVE DISABILITIES AND FIFTY PER CENT SHALL REPRESENT PERSONS WITH  
4 PHYSICAL DISABILITIES.

5           2. Immediate relatives or guardians of persons with mentally impairing  
6 developmental disabilities.

7           D. Members appointed pursuant to subsection C shall not be:

8           1. Employees of a state agency ~~which~~ THAT receives monies or provides  
9 services for persons with developmental disabilities.

10          2. Managing employees, as defined in section 1126(b) of the social  
11 security act, of any other entity ~~which~~ THAT receives monies or provides  
12 services for persons with developmental disabilities.

13          3. Persons with an ownership or control interest, as defined in  
14 section 1124(a)(3) of the social security act, with respect to such an  
15 entity.

16          E. Of the members of the council appointed pursuant to subsection C:

17          1. At least one-third shall be persons with developmental  
18 disabilities.

19          2. At least one-third shall be persons described in subsection C,  
20 paragraph 2, at least one of whom is an immediate relative or guardian of an  
21 institutionalized person with a developmental disability.

22          F. In addition to members appointed pursuant to the requirements of  
23 subsection C, at least ten members shall be appointed pursuant to this  
24 subsection. If a new agency or facility is established, the governor, ~~upon~~  
25 ON a vacancy occurring in a category that has multiple representation on the  
26 council, shall appoint a member to represent the newly established facility.  
27 Representatives shall be selected as follows:

28          1. At least one representative from the principal state agency  
29 including each separate state agency that administers monies provided under  
30 the federal rehabilitation act of 1973, the individuals with disabilities  
31 education act, the older Americans act of 1965 and title XIX of the social  
32 security act for persons with developmental disabilities.

33          2. At least one representative from the federal agency that  
34 administers monies provided under title V of the social security act for  
35 persons with developmental disabilities.

36          3. At least one representative from a higher education training  
37 facility for persons with developmental disabilities.

38          4. At least one representative from each university affiliated  
39 facility or satellite center concerned with persons with developmental  
40 disabilities.

41          5. A representative of this state's protection and advocacy system for  
42 people with developmental disabilities established pursuant to section 142 of  
43 the developmental disabilities act of 1984.

44          6. At least one representative from a local governmental agency  
45 concerned with services to persons with developmental disabilities.

1           7. At least one representative from a nongovernmental agency that is a  
2 private nonprofit group concerned with services to persons with developmental  
3 disabilities.

4           G. THE ATTORNEY GENERAL SHALL MONITOR THE COUNCIL AND ADVISE IT ON THE  
5 PROPER PERFORMANCE OF ITS STATUTORY AND FIDUCIARY DUTIES.

6           Sec. 5. Section 41-2454, Arizona Revised Statutes, is amended to read:  
7 41-2454. Duties of council

8           The council shall:

9           1. Serve as a forum through which issues regarding current and  
10 potential services and programs for persons with developmental disabilities  
11 may be discussed by consumer, public, private, professional and lay  
12 interests.

13           2. Advise the private sector, ~~AND~~ the executive and, if requested,  
14 the legislative branches of state government on programs and policies  
15 pertaining to current and potential services to persons with developmental  
16 disabilities and their families.

17           3. Submit periodic reports, including an annual report to the  
18 governor, the speaker of the house of representatives and the president of  
19 the senate and other reports as requested, concerning services to persons  
20 with developmental disabilities.

21           4. Review, comment and make recommendations as necessary on all  
22 service plans of this state that affect services and programs for persons  
23 with developmental disabilities and forward a summary of all recommendations  
24 and responses from agencies to the appropriate legislative committees if  
25 requested.

26           5. Develop, prepare, adopt and periodically review and revise a  
27 council plan for the developmentally disabled, in order to establish the  
28 following:

29           (a) Goals and objectives to meet the needs of persons with  
30 developmental disabilities. These goals and objectives shall be based on  
31 identified needs and shall be designed to cover gaps in existing services.

32           (b) Alternative plans to achieve the goals and objectives established  
33 pursuant to subdivision (a).

34           (c) Plans to improve the quality of services and programs provided to  
35 persons with developmental disabilities.

36           6. Monitor programs and services for persons with developmental  
37 disabilities to encourage efficient and coordinated use of resources in the  
38 provision of services.

39           7. Facilitate the coordination of the district advisory councils in  
40 the six planning districts to serve as a community information network  
41 throughout this state and to ensure that they do not engage in any activity  
42 that may compromise the council's or a district advisory council's ability to  
43 monitor compliance with quality assurance standards.

44           8. COMPLY WITH REQUIREMENTS OF 42 UNITED STATES CODE SECTION 15021.

1           Sec. 6. Repeal

2           Section 41-3009.04, Arizona Revised Statutes, is repealed.

3           Sec. 7. Title 41, chapter 27, article 2, Arizona Revised Statutes, is  
4 amended by adding section 41-3010.26, to read:

5           41-3010.26. Arizona council on developmental disabilities:  
6                               termination July 1, 2010

7           A. THE ARIZONA COUNCIL ON DEVELOPMENTAL DISABILITIES TERMINATES ON  
8 JULY 1, 2010.

9           B. TITLE 41, CHAPTER 22 IS REPEALED ON JANUARY 1, 2011.

10          Sec. 8. Section 41-4101, Arizona Revised Statutes, is amended to read:

11          41-4101. Interagency council on long-term care; membership;  
12                               compensation; meetings

13          A. The interagency council on long-term care is established consisting  
14 of the following members:

15           1. The director of the department of health services or the director's  
16 designee.

17           2. The director of the department of economic security or the  
18 director's designee.

19           3. The director of the Arizona health care cost containment system  
20 administration or the director's designee.

21           4. The director of the department of commerce or the director's  
22 designee.

23           5. The director of the department of insurance or the director's  
24 designee.

25           6. The executive director of the governor's advisory council on aging.

26           7. The chairperson of the ~~governor's~~ ARIZONA council on developmental  
27 disabilities.

28           8. The long-term care ombudsman.

29           9. One representative from an agency on aging in an urban area. The  
30 governor shall appoint this member.

31           10. One representative from an agency on aging in a rural area. The  
32 governor shall appoint this member.

33           11. Two members of the house of representatives who are appointed by  
34 the speaker of the house of representatives and who represent different  
35 political parties. Members appointed pursuant to this paragraph are  
36 nonvoting members and are not counted for the purpose of determining the  
37 presence of a quorum.

38           12. Two members of the senate who are appointed by the president of the  
39 senate and who represent different political parties. Members appointed  
40 pursuant to this paragraph are nonvoting members and are not counted for the  
41 purpose of determining the presence of a quorum.

42          B. Members appointed by the governor serve three year terms.

43          C. The governor shall appoint the chairperson and vice-chairperson of  
44 the council from among its membership.



1           D. The council shall meet at least four times a year and at the call  
2 of the chairperson. The council shall also hold at least one meeting each  
3 year to invite public comment regarding the council's progress toward  
4 implementing a coordinated services delivery system.

5           E. Council members are not eligible to receive compensation, but  
6 members appointed by the governor are eligible to receive reimbursement of  
7 expenses pursuant to title 38, chapter 4, article 2.

8           F. The department of economic security shall provide the council with  
9 administrative support and meeting room space.

10           Sec. 9. Purpose

11           Pursuant to section 41-2955, subsection B, Arizona Revised Statutes,  
12 the legislature continues the Arizona council on developmental disabilities  
13 to fulfill the duties prescribed in section 41-2454, Arizona Revised  
14 Statutes.

15           Sec. 10. Retroactivity

16           Sections 6 and 7 of this act are effective retroactively to July 1,  
17 2009.